

1 JEAN-RENE BASLE, Bar No. 134107
County Counsel
2 LAURA L. CRANE, Bar No. 238246
3 Deputy County Counsel
Office of County Counsel
4 385 North Arrowhead Avenue, Fourth Floor
5 San Bernardino, California 92415
Telephone: (909) 387-5449
6 Facsimile: (909) 387-4069
7 E-Mail: laura.crane@cc.sbcounty.gov

8 Attorneys for Defendants, County of San Bernardino and San Bernardino County
9 Sheriff's Department

10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12

13 MICHELLE CHRISTINA RIVERA,
14 Plaintiff,

15
16 v.

17
18 COUNTY OF SAN BERNARDINO;
19 SAN BERNARDINO COUNTY
20 SHERIFF'S DEPARTMENT;
21 COUNTY OF SAN DIEGO; SAN
22 DIEGO COUNTY SHERIFF'S
23 DEPARTMENT; SHERIFF WILLIAM
24 GORE; SAN DIEGO DEPUTY
SHERIFF FRANK LEYVA (#3348);
and DOES 1 through 10, in both their
individual and official capacities,

25 Defendants.
26
27
28

Case No. 5:16-cv-00795 PSG-KSx
Hon. Judge Phillip S. Gutierrez

DEFENDANTS COUNTY OF SAN
BERNARDINO AND SAN BERNARDINO
COUNTY SHERIFF'S DEPARTMENT'S
ANSWER TO FIRST AMENDED
COMPLAINT FOR DAMAGES

Complaint Filed: April 26, 2016

1 Defendants County of San Bernardino, and San Bernardino County Sheriff's
2 Department ("Defendants") answer Plaintiff Michelle Christina Rivera's First Amended
3 Complaint for Damages, as follows:

4 1. Answering paragraph 1, Defendants admit the within action is brought
5 under 42 United States Code Section 1983 and California law. Defendants interpret the
6 remaining allegations of this paragraph as legal conclusions not requiring a response. To
7 the extent the remaining allegations are construed as factual allegations, Defendants
8 deny those allegations.

9 2. Answering paragraph 2, Defendants deny the factual allegations of this
10 paragraph.

11 3. Answering paragraph 3, Defendants admit the factual allegations of this
12 paragraph based on information and belief.

13 4. Answering paragraph 4, Defendants admit the County of San Bernardino is
14 a local governmental entity organized and existing under the laws of the State of
15 California. Defendants deny all remaining factual allegations contained in this
16 paragraph.

17 5. Answering paragraph 5, Defendants admit the County of San Diego is a
18 local governmental entity organized and existing under the laws of the State of
19 California. Defendants deny all remaining factual allegations contained in this
20 paragraph.

21 6. Answering paragraph 6, Defendants lack sufficient information or belief
22 concerning the allegations of this paragraph and deny the allegations on that basis.

23 7. Answering paragraph 7, Defendants lack sufficient information or belief
24 concerning the allegations of this paragraph and deny the allegations on that basis.

25 8. Answering paragraph 8, Defendants interpret the allegations of this
26 paragraph as legal conclusions not requiring a response. To the extent the allegations are
27 construed as factual allegations, Defendants deny those allegations.

1 9. Answering paragraph 9, Defendants lack sufficient information or belief
2 concerning the allegations of this paragraph and deny the allegations on that basis.

3 10. Answering paragraph 10, Defendants deny employees from the County of
4 San Bernardino caused Plaintiff's alleged injuries. Defendants lack sufficient
5 information or belief concerning the remaining allegations of this paragraph and deny
6 those allegations on that basis.

7 11. Answering paragraph 11, Defendants admit that on April 27, 2015 Plaintiff
8 was involved in a vehicle pursuit that terminated in San Diego County after having been
9 involved in Riverside and San Bernardino counties. Defendants deny arresting Plaintiff
10 on April 27, 2015. Defendants lack sufficient information or belief concerning the
11 remaining allegations of this paragraph and deny those allegations on that basis.

12 12. Answering paragraph 12, Defendants deny deputies from the San
13 Bernardino County Sheriff's Department were present when Plaintiff was arrested and/or
14 injured, if Plaintiff was injured. Defendants lack sufficient information or belief
15 concerning the remaining allegations of this paragraph and deny those allegations on that
16 basis.

17 13. Answering paragraph 13, Defendants lack sufficient information or belief
18 concerning the allegations of this paragraph and deny the allegations on that basis.

19 14. Answering paragraph 14, Defendants lack sufficient information or belief
20 concerning the allegations of this paragraph and deny the allegations on that basis.

21 15. Answering paragraph 15, Defendants lack sufficient information or belief
22 concerning the allegations of this paragraph and deny the allegations on that basis.

23 16. Answering paragraph 16, Defendants incorporate by this reference their
24 responses to paragraphs 1 through 15.

25 17. Answering paragraph 17, Defendants deny arresting Plaintiff or accusing
26 Plaintiff of threatening violence against on or more deputies from any department.
27 Defendants lack sufficient information or belief concerning the remaining allegations of
28 this paragraph and deny those allegations on that basis.

1 18. Answering paragraph 18, Defendants lack sufficient information or belief
2 concerning the allegations of this paragraph and deny the allegations on that basis.

3 19. Answering paragraph 19, Defendants deny Plaintiff was injured, if Plaintiff
4 was injured, as the result of a County of San Bernardino policy, practice or custom.
5 Defendants lack sufficient information or belief concerning the remaining allegations of
6 this paragraph and deny those allegations on that basis.

7 20. Answering paragraph 20, Defendants incorporate by this reference their
8 responses to paragraphs 1 through 19.

9 21. Answering paragraph 21, Defendants lack sufficient information or belief
10 concerning the allegations of this paragraph and deny the allegations on that basis.

11 22. Answering paragraph 22, Defendants deny Plaintiff was injured, if Plaintiff
12 was injured, as the result of a County of San Bernardino policy, practice or custom.
13 Defendants lack sufficient information or belief concerning the remaining allegations of
14 this paragraph and deny those allegations on that basis.

15 The remaining allegations of the First Amended Complaint are not alleged against
16 these answering defendants.

17 **DEFENDANTS' AFFIRMATIVE DEFENSES**

18 **FIRST AFFIRMATIVE DEFENSE**

19 Plaintiff's injuries or damages, if any, were proximately caused by Plaintiff's
20 negligence, in that Plaintiff failed to exercise ordinary care under the circumstances.
21 Plaintiff is therefore barred from recovery herein.

22 **SECOND AFFIRMATIVE DEFENSE**

23 Defendants request that in the event of a judgment in favor of Plaintiff, at a post-
24 trial hearing, the judgment be reduced against these answering public entity Defendants
25 for collateral source payments paid or obligated to be paid for services or benefits that
26 were provided to or on behalf of Plaintiff prior to commencement of trial, as provided in
27 Government Code section 985.

1 **THIRD AFFIRMATIVE DEFENSE**

2 At all times mentioned in the First Amended Complaint, the individually involved
3 law enforcement officers acted in good faith, with a reasonable belief that their actions
4 were constitutional, and did not directly or indirectly perform any acts that would
5 constitute a violation of Plaintiff's federal rights. Plaintiff is therefore precluded from
6 maintaining her causes of action for violation of her civil rights, under principles of
7 qualified immunity. [*Harlow v. Fitzgerald* (1981) 457 US 800.]

8 **FOURTH AFFIRMATIVE DEFENSE**

9 At all times mentioned in the First Amended Complaint, Defendants acted in good
10 faith, with reasonable suspicion and/or probable cause, and entertained an honest
11 reasonable belief that their actions were reasonable and necessary thereby precluding
12 Plaintiff from maintaining any causes of action for violation of her civil rights. [*Pierson*
13 *v. Ray* (1967) 386 U.S. 547.]

14 **FIFTH AFFIRMATIVE DEFENSE**

15 Plaintiff failed to mitigate her damages, if any, and is therefore barred from
16 recovery herein, or in the alternative, should have the damages reduced by that amount
17 attributable to the failure to mitigate.

18 **SIXTH AFFIRMATIVE DEFENSE**

19 At no time relevant to this litigation did Plaintiff sustain any violation of her civil
20 rights pursuant to a governmental habit or custom, thereby precluding Plaintiff from
21 maintaining her cause of action for violation of her civil rights. [*Monell v. Dept. of*
22 *Social Services* (1978) 436 U.S. 658.]

23 **SEVENTH AFFIRMATIVE DEFENSE**

24 At all times relevant to this litigation, Defendants were performing discretionary
25 functions and Defendants' conduct did not violate any established statutory or
26 constitutional rights of which a reasonable person would consider to be civil rights.

27 **EIGHTH AFFIRMATIVE DEFENSE**

28 The First Amended Complaint fails to state facts sufficient to constitute a cause of

1 action for punitive/exemplary damages against the Defendants.

2 **NINTH AFFIRMATIVE DEFENSE**

3 At no time relevant to this litigation did Defendants violate any statute or
4 enactment designed or intended to protect Plaintiff against the harm for which the
5 Plaintiff seeks damages nor was any statute or enactment specified by Plaintiff in her
6 Complaint designed to create a civil cause of action for a person in Plaintiff's position.

7 **TENTH AFFIRMATIVE DEFENSE**

8 The arrest, if any, was made by a peace officer when the person arrested had
9 committed, or said officer had reason to believe that the person to be arrested had
10 committed, a misdemeanor and/or felony.

11 **ELEVENTH AFFIRMATIVE DEFENSE**

12 At all times relevant to this litigation, Plaintiff voluntarily assumed all risks,
13 responsibility and liability for the alleged injuries or damages, if any sustained by
14 Plaintiff.

15 WHEREFORE, Defendants pray that:

- 16 1. Plaintiff take nothing by reason of her Complaint;
17 2. For costs of suit herein incurred;
18 3. For defense costs, including reasonable attorney fees; and,
19 4. For such other and further relief as the Court may deem just and proper

20 Dated: June 3, 2016

Respectfully submitted,
JEAN-RENE BASLE
County Counsel

23 By: /s/ Laura L. Crane

24 LAURA L. CRANE

25 Deputy County Counsel

26 Attorneys for Defendants County of San Bernardino
27 and San Bernardino County Sheriff's Department
28

DEMAND FOR JURY

Defendants hereby demand a jury trial as to all the issues framed by the pleadings pursuant to Federal Rules of Civil Procedure Rule 38(b), and Local Rule 38-1.

Dated: June 3, 2016

Respectfully submitted,
JEAN-RENE BASLE
County Counsel

By: /s/ Laura L. Crane

LAURA L. CRANE

Deputy County Counsel

Attorneys for Defendants County of San Bernardino
and San Bernardino County Sheriff's Department